

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 05/15/2018

-----X
NEW YORK CITY & VICINITY DISTRICT COUNCIL :
OF CARPENTERS, :

Petitioner, :

-v- :

S & N BUILDERS, INC., :

Respondent. :

18-CV-2911 (JMF)

MEMORANDUM OPINION
AND ORDER

-----X
JESSE M. FURMAN, United States District Judge:

On April 2, 2018, Petitioner filed a Petition to Confirm Arbitration. (Docket No. 1). On April 4, 2018, the Court set a briefing schedule for Petitioner's submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioner's reply. (Docket No. 5). Petitioner served Respondent with the Petition, supporting materials, and the briefing schedule. (Docket Nos. 6, 9). Pursuant to the briefing schedule, Respondent's opposition was due no later than May 1, 2018. (Docket No. 5). To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trustees for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Const. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After reviewing the petition and the supporting materials, the Court finds that there is

no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

The Court also awards Petitioner's requested attorneys' fees and costs. *See Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) ("[W]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." (internal quotation marks omitted)). Here, Petitioner has met its burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred. Finally, the Court grants Petitioner's request for pre-judgment interest at a rate of nine percent. *See Herrenknecht Corp. v. Best Rd. Boring*, No. 06-CV-5106 (JFK), 2007 WL 1149122, at *3 (S.D.N.Y. Apr. 16, 2007) ("The common practice among courts within the Second Circuit is to grant interest at a rate of nine percent, the rate of pre-judgment interest under New York State law." (internal quotation marks omitted)); *Waterside Ocean Navigant Co. v. Int'l Navigation Ltd.*, 737 F.2d 150, 154 (2d Cir. 1984) (adopting a "presumption in favor of pre-judgment interest").

Accordingly, the Court grants Petitioner's unopposed petition to confirm the entire Award. Petitioner is directed to submit a proposed Judgment consistent with this Memorandum Opinion and Order to the Orders and Judgments Clerk of this Court by **May 22, 2018**.

SO ORDERED.

Dated: May 15, 2018
New York, New York



JESSE M. FURMAN
United States District Judge